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03C1B 7343

OGC Has Reviewed

29 October 1956

MEMORANDUM FOR: C/Finance Division
ATTENTION : C/Payroll and Travel Branch
SUBJECT : Shipment of Automobile Via Foreign Vessel
REFERENCE : Memorandum from C/Payroll and Travel Branch,
Finance Division, same subject, dated 22 October 1956

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1. In his memorandum, [] requested the opinion of this Office as to whether a [] properly may be reimbursed for charges incident to his shipment of his privately owned automobile in a foreign flag vessel.
2. The query poses the issue of whether an automobile belonging to a government employee which properly may be transported by sea at government expense falls within the purview of Section 901 of the Merchant Marine Act of 1936 (29 Stat. 2015, 46 USC 1241 (1952)), as amended.
3. In terms, the Act extends only to the person and personal effects of an officer or employee of the United States traveling on official business overseas. In terms, consequently, automobiles are excluded.

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[] We have discussed the issue posed with the Travel Branch in the State Department (Mr. Blundin, Code 168, X-4971) and with a cleared attorney in the General Accounting Office (Mr. Barclay, Code 195, X-5419). It was State's position that Section 901 should be, and has been, construed to include the shipment of automobiles by sea carrier. Mr. Blundin imputed this construction to the General Accounting Office. The General Accounting Office stated that the matter had not been before it. However, Mr. Barclay said that, were the matter to come before GAO, they would be inclined to rule that Section 901 included automobiles, in view of the considerations that, (a) at the time of the passage of Section 901, the shipment of automobiles belonging to government employees at government expenses probably was not in the contemplation of the Congress, and so was not treated in the statute, and (b) the clear policy of the Merchant Marine Act is indirectly to subsidize American shipping.

4. In view of (a) the derivation of the Agency's authority in the premises from similar authority in State Department legislation, (b) the State Department interpretation of the statute involved/

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In those instances in which the use of an American flag vessel for the shipment of an automobile would impair an Agency operation a foreign flag vessel may be used under the "necessity of...mission" exception provided in Section 901. As you know, such has been the past practice of the Agency as regards sea shipments involving persons and property other than automobiles.

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5. On the basis of the foregoing, it is the opinion of this Office that [redacted] claim may not be reimbursed unless the area division determines that the use of a foreign flag vessel in his circumstances was necessary to the accomplishment of his mission on either security or operational grounds.

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[redacted]
Office of General Counsel

OGC:HF/ebb

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